

*** NOT FOR PUBLICATION ***

NO. 25951

IN THE SUPREME COURT OF THE STATE OF HAWAII

WILLIAM TOYAMA, Plaintiff-Appellant

vs.

OAHU TRANSIT SERVICES, LTD.; SPECIALTY RISK SERVICES; SHERI TANAKA, Individually and in her capacity as its Account Representative; HONOLULU SPORTS MEDICAL CLINIC, INC., and ROBERT SMITH, M.D., Individually, and in his capacity as an Associate Physician, BYRON A. ELIASHOF, M.D., INC., and BYRON A. ELIASHOF, Individually and in his capacity as the President and Principal Physician with BYRON A. ELIASHOF, M.D., INC.,
Defendants-Appellees

and

JOHN DOES 1-10, JANE DOES 1-10, DOE ENTITIES 1-10, DOE PARTNERSHIPS 1-10 and DOE CORPORATIONS 1-10, Defendants

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 02-1-2986)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of the record, it appears that we do not have jurisdiction over Plaintiff-Appellant William Toyama's (Appellant Toyama) appeal, because Appellant Toyama did not file his July 7, 2003 notice of appeal within thirty days after entry of the June 2, 2003 judgment, as Rule 4(a)(1) of the Hawai'i Rules of Appellate Procedure (HRAP) required. The failure of Appellant Toyama to file a timely notice of appeal is a jurisdictional defect that the parties cannot waive and we cannot disregard in the exercise of judicial discretion. Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1129 (1986); HRAP Rule 26(b) ("[N]o court or judge or justice thereof is authorized to change the jurisdictional requirements contained in Rule 4 of [the HRAP]."). Therefore, we lack jurisdiction over this appeal.

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Accordingly,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, October 20, 2003.